

REMARKS

In the Office Action, claims 1 and 2 stand rejected under 35 U.S.C. § 102 and claims 1 to 3 stand rejected under 35 U.S.C. § 112, second paragraph, and 35 U.S.C. § 103. The drawings, Abstract, Title of the Invention, and specification were objected to.

Applicant has amended claim 1 in response to the rejection under 5 U.S.C. § 112, second paragraph, has corrected Figure 1 of the drawings to properly support the claims, has amended the specification to provide support for the claims, has changed the location of the Abstract, and has amended the Title of the application. A corrected version of the drawings is submitted herewith. In view of these changes and the following remarks, Applicant believes that claims 1 to 3 are now in condition for allowance, and respectfully requests reconsideration of the application.

The present invention provides a waste bin assembly for sorting and emptying of wastes thrown therein. The waste bin assembly comprises at least two compartments 9, 10 which are hung on a vertical shaft 1 that is mounted beneath a work table 3 and that is rotatable by means of a bearing and mounting arranged at the top of the shaft 1. Thus, the waste bin assembly of the invention enables the storage of different types of wastes in separate compartments while saving floor space.

In the Office Action, the Examiner objected to the drawings, stating that "the waste bin comprising at least two compartments as discussed in claim 1 and the tubular hollow square profile as discussed in claim 3 must be shown or the feature(s) canceled from the claims(s)." Applicant respectfully disagrees with the objection insofar as it is directed to the compartments, since Figure 1 already depicts a waste bin assembly with two compartments 9, 10 and the amended specification now expressly recites implementation of the waste bin assembly having more than two

compartments. In response to the objection directed to the tubular hollow square profile, Applicant has corrected Figure 2 to indicate the hollow nature of the shaft 1 along its tubular length. Applicant has added no new matter in correcting the drawings or amending the specification in this regard and respectfully requests withdrawal of the Examiner's said objection.

The Examiner has also objected to the Abstract on the ground that it was not presented on a separate sheet of paper, has objected to the Title of the application as not clearly indicating the invention to which the claims are directed, and has objected to the specification as failing to provide proper antecedent basis for the claimed subject matter. In response to these objections, Applicant has deleted the existing Abstract that was located on the cover page, has added an Abstract on a separate, new sheet, has amended the Title to read "Waste Bin Assembly", and has amended the specification to indicate that the waste bin assembly may have more than two compartments. Applicant has added no new matter in making these changes and respectfully requests withdrawal of these objections.

The Examiner also rejected the claims under 35 U.S.C. § 112, second paragraph; on the ground that the limitation "by means of bearing and mounting means" in claim 1 represents indefinite mean-plus-function language. In response, Applicant has amended claim 1 to remove the second recitation of "means" in claim 1 and clarifying the language and respectfully requests withdrawal of this rejection.

Turning now to the substantive rejections of the Office Action, the Examiner has rejected claims 1 and 2 under 35 U.S.C. § 102 as anticipated by U.S. Patent No. 1,961,922 (Brandstetter). Claims 1 to 3 have been rejected as unpatentable under 35 U.S.C. § 103 over U.S. Patent No. 4,971,234 (Hay) in view of Brandstetter and U.S. Patent No. 5,101,997 (Bagwell et al.).

Brandstetter is directed to a post that is fixedly-secured between the floor and a lower surface of a board 16. The base 5 of the post is placed on the floor and the rod 12 of the post is secured to the board 16 at point 15. A single receptacle 17 is engaged to the rod 12 and is rotatable thereon so as to enable swinging of the receptacle 17 under board 16 or extending of the receptacle from the board for placing of garbage therein. Thus, in contrast to Applicant's claimed invention, the receptacle 17 in Brandstetter is only rotatable relative to the post in response to a force manually-applied to the receptacle itself; the post is not rotatable.

Hay is directed to a storage unit 10 mounted within the box 12 of a pickup truck. Storage unit 10 includes a base 20 which is anchored to the floor 14 of the pickup truck box 12, a substantially vertical support stanchion 80 mounted to the base 20, and storage shelves 52, 54, 56 which are pivotally mounted to support stanchion 80. Storage shelves 52, 54, 56 are positioned at different heights and are independently rotatable about stanchion 80.

Bagwell et al. ("Bagwell") is directed to a receptacle 10 having separate bins 12 for holding and dispensing of waste articles of different materials. Receptacle 10 includes a base 16 and a frame 14 having a vertical support member 18 secured to and extending upwardly from base 16. Each of the bins 12 is secured to and separately removable from a cup 21 of frame 14. A bearing assembly 22 is mounted to the bottom surface of base 16 to enable rotation of the receptacle 10 about support member 18.

With respect to the 35 U.S.C. § 102 rejection of claims 1 and 2, Brandstetter discloses only one receptacle and does not teach or suggest at least two compartments which are hung on a vertical shaft. Brandstetter also discloses a post that is fixedly secured to the floor and an overlying board, and does not teach or suggest a vertical shaft 1 that is rotatably mounted beneath a work table or any bearing assembly arranged at the top of the shaft and, in addition, that does not contact or depend

from the floor to advantageously maximize the space-saving aspects of the present invention. Since Brandstetter fails to teach or suggest these expressly recited elements and features of the present invention as set forth in claim 1, Applicant submits that claims 1 and 2 are in fact patentable over Brandstetter.

Similarly, with respect to the 35 U.S.C. § 103 rejection of claims 1 to 3, none of the cited references teach or suggest at least two compartments hung on a vertical shaft which is rotatably mounted beneath a work table or a bearing assembly arranged at the top of the shaft for enabling rotation of the shaft as expressly recited in claim 1 of the instant application. Brandstetter does not teach or suggest these features, as discussed above. Hay discloses storage shelves 52, 54, 56 which are pivotally mounted to a support stanchion 80 that is fixedly secured to the floor 14 of the pickup truck box 12 at a base 20. Although the Examiner has conceded that Hay does not teach or suggest a shaft that is mounted beneath a work table or bins detachably hung on the shaft, Hay also does not teach the rotatability of such a shaft or the provision of any bearing means assembly to enable such rotation of the shaft. Bagwell discloses bins 12 secured to a frame 14 having a vertical support member 18 secured to and extending upwardly from a fixed base 16, but likewise fails to teach or suggest compartments hung on a vertical shaft beneath a work table where the vertical shaft terminates short of an underlying ground member. Nor does the bearing assembly 22 in Bagwell, which enables rotation of a receptacle 10, teach or suggest the provision of a bearing assembly located at the top of the shaft beneath the work table or that such a bearing assembly enables rotation of the shaft itself as in the present invention.

In rejecting claims 1 to 3 under 35 U.S.C. § 103, the Examiner seeks to apply Brandstetter and Bagwell to remedy the admitted deficiencies of Hay. The Examiner first alleges that it "would have been obvious to remove the support from the bed of the pick-up truck [in Hay] and

[in Hay] and mount the support beneath a work table in order to relocate the bins so that the bins provide storage proximate to a work table to enable a worker to discard waste materials without leaving the work table." The Examiner then states that it "would have been obvious to modify the connection between the bins and their shaft sections [in Bagwell] in order to make it convenient to remove a bin in or to relocate or empty the bin." Applicants respectfully disagree.

A proper rejection under 35 U.S.C. § 103 requires that a reference provide a clear suggestion or motivation to combine its teaching with another reference or teaching to attain Applicants' claimed invention. Applicants respectfully submit that there is no teaching, suggestion or motivation in the cited references, or generally in the art, to combine Hay, Brandstetter and Bagwell as the Examiner has done. Each of the cited references is directed to a specific but different type of use of containers or bins. The references lack any clear motivation or suggestion for any other uses, much less in the manner taught by Applicant's invention.⁴ For example, the storage unit 10 in Hay is used for storage of tools on the floor of a pickup truck and not as a waste bin assembly that is rotatably mounted under a work table. The receptacle 17 in Brandstetter is used under a board or sink. The receptacle 10 in Bagwell is used for holding and moving recyclable waste material on movable casters 32 and is likewise not intended for use under a work table for reusing garbage.

For the foregoing reasons, Applicant respectfully submits that claims 1 to 3 are patentable over the Examiner's proffered combination of Hay, Brandstetter and Bagwell. Withdrawal of the rejections, and early allowance of the application is solicited.

Any fees or charges required at this time in connection with the application may be charged
to our Patent and Trademark Office Deposit Account No. 03-2412.

Respectfully submitted,

COHEN, PONTANI, LIEBERMAN & PAVANE

By _____

Lance J. Lieberman
Reg. No. 28,437
551 Fifth Avenue, Suite 1210
New York, New York 10176
(212) 687-2770

Dated: October 18, 2002

VERSION WITH MARKINGS SHOWING CHANGES

IN THE SPECIFICATION:

Cover page, the title has been amended as follows:

--WASTE BIN ASSEMBLY--

Page 1, the paragraph starting on line 34 has been amended as follows:

--The device comprises a central shaft 1 made from tubular square hollow profile which is arranged vertically. On each side of the square profile there are several through bores 11 for the hanging up of boxes or compartments 9, 10. Although two boxes are shown by way of example, the shaft may also support the hanging of more than two compartments or boxes. The boxes are easily detachable by being hooked at the openings in a suitable way.--

IN THE CLAIMS:

Claim 1 has been amended as follows:

--1. (Amended) Emptyable waste bin assembly for sorting of wastes thrown into the waste bin assembly characterized in that the waste bin assembly comprises at least two compartments (9, 10) which are hung at a vertical shaft (1) which is rotatably mounted beneath a work table (3) by means of a bearing and mounting assembly [means which are] arranged at the top of the shaft.--

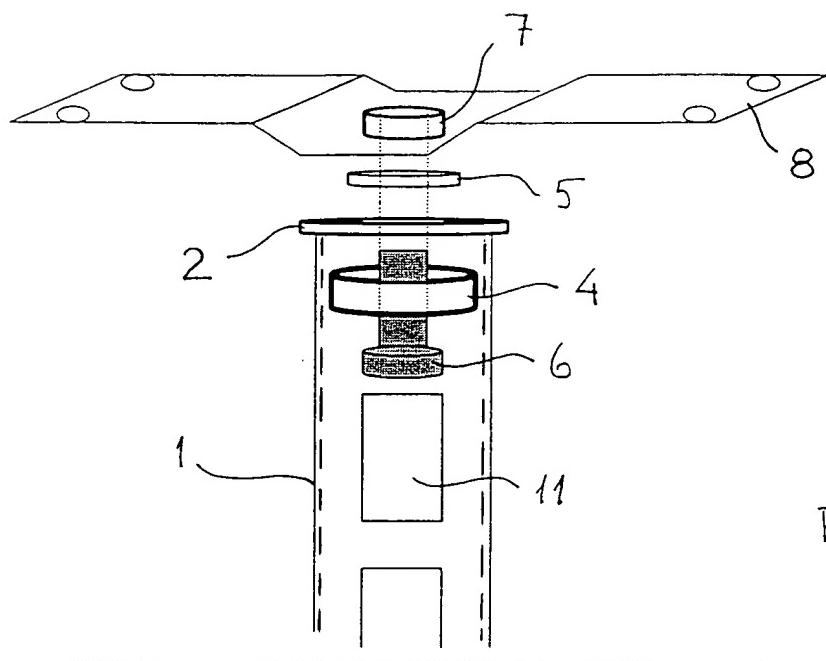


FIG 2

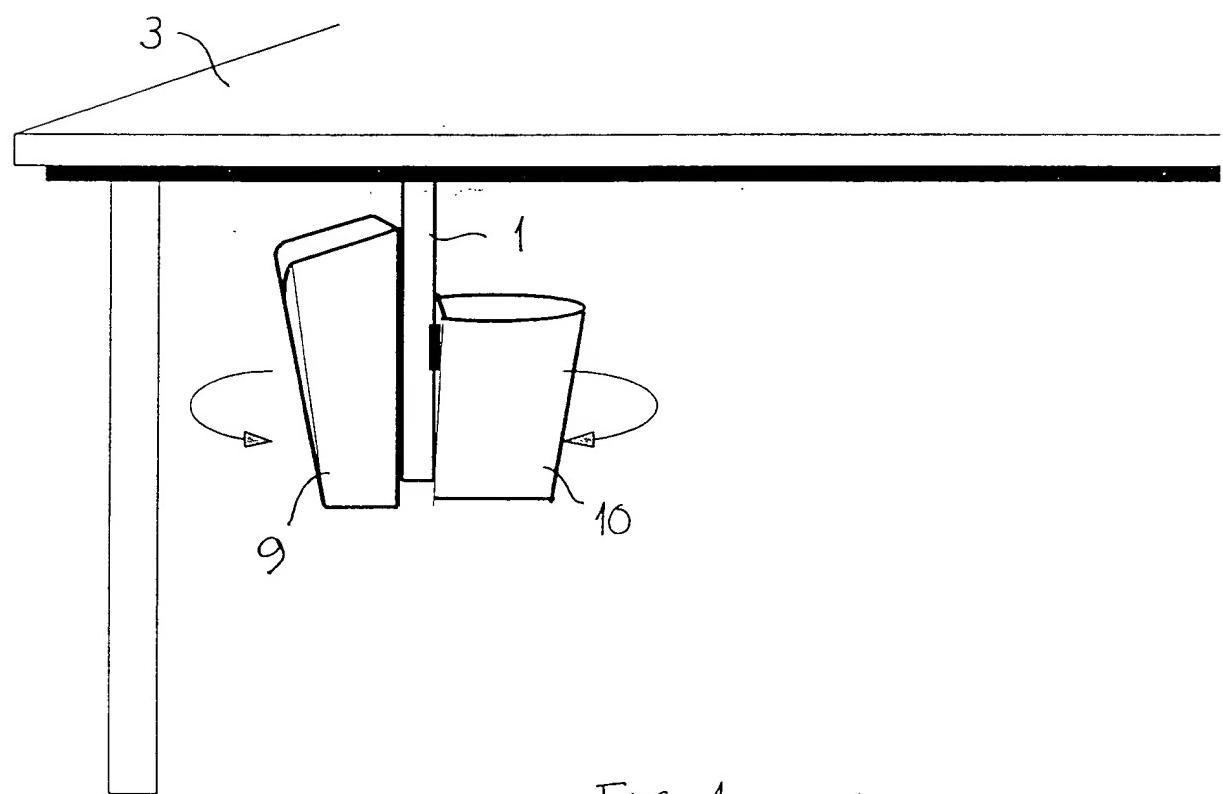


FIG 1